other adequate remedy, would be to deprive a person of his property without a hearing. *Palmer* v. *Hughes,* 84 Md. 652, 36 Atl. 431; *Kean* v. *Doerner,* 62 Md. 475; *Buckman* v. *Buckman,* 4 N. H. 319.

Under statutes similar to the one under which the principal case was decided, the courts are divided. It is held in some jurisdictions, in accord with the principal decision, that the interest which entitles a third party to intervene in an attachment suit is an interest in the subject-matter of the original suit, and not an interest in the property attached; and, therefore, that a claimant of attached property who has no other interest in the litigation cannot intervene. Such intervention would introduce a new subject of litigation. *Meyer, etc., Co.* v. *Black,* 4 N. M. 190, 16 Pac. 620; *Lewis* v. *Harwood,* 28 Minn. 428, 10 N. W. 586. However, the weight of authority and the better reason seem to sustain the contrary view: that the claimant of attached property has the right to intervene. *Dennis* v. *Kolm,* 131 Cal. 91, 63 Pac. 141; *New Orleans Canal, etc., Co.* v. *Beard,* 16 La. Ann. 345, 79 Am. Dec. 582; *Potlatch Lumber Co.* v. *Runkel,* 16 Idaho 192, 101 Pac. 396, 23 L. R. A. (N. S.) 536, 18 Ann. Cas. 591. See *Brown* v. *Saul,* 4 Mart. N. S. (La.) 434, 16 Am. Dec. 175. The reason for allowing intervention in such cases is, not that the claimant has any interest in the original action, but that the plaintiff, by reason of causing the intervenor's property to be attached, makes it liable for the satisfaction of any judgment he may obtain, thus creating an interest in the action on the part of the intervenor. *Potlatch Lumber Co.* v. *Runkel, supra.*

BANKS AND BANKING—LIABILITY TO DEPOSITOR—TRUST FUNDS.—An administrator deposited, to the credit of his personal account with the defendant bank, checks drawn on another bank by himself, as administrator. A part of the deposit was paid to the bank in satisfaction of a personal loan, and a part was drawn out by checks, payable to third persons, in payment of personal debts of the administrator. The administrator defaulted; and an action was brought in behalf of the estate to charge the bank for the money thus received. *Held,* the bank is charged with notice of the misappropriation of the trust funds; and is liable for both the funds received by it in payment of the administrator's personal loan, and for the funds drawn in payment of the administrator's other personal debts. *Bischoff* v. *Yorkville Bank,* 156 N. Y. Supp. 563.

It is a well established principle of law that if a creditor receives from his debtor, in payment of a personal obligation a check or note drawn or endorsed by the debtor, as trustee, executor or administrator, the creditor takes with notice that the debtor has misappropriated the funds of another person; and will be liable to such person to the amount of the funds paid. *Squire* v. *Ordemann,* 194 N. Y. 394, 87 N. E. 435; *Wolffe* v. *State,* 79 Ala. 201, 58 Am. Rep. 590; *Eyrick* v. *Capital State* Bank, 67 Miss. 60, 6 South. 615. And the same principle applies when one takes from an agent an instrument, which, on its face, gives constructive notice that the agent is discharging his personal debt with funds belonging to the principal. *Lamson* v. *Beard,* 36 C. C. A. 56, 94 Fed. 30, 45 L. R. A. 822; *Rochester & C. T. Road Co.* v. *Paviour,* 164 N. Y. 281, 58 N. E. 114, 52 L. R. A. 790.

By the great weight of authority, where one deposits in a bank checks drawn or endorsed by himself, in a fiduciary or representaive capacity, to his personal credit and later checks on such funds in payment of his personal debts to third persons, the bank is not liable to the beneficial owner for the funds thus misappropriated; since the fiduciary has the absolute right to decide the place and the manner in which he shall keep the trust fund. *Batchelder* v. *Central National Bank,* 188 Mass. 25, 73 N. E. 1024; *Safe-Deposit Trust Co.* v. *Diamond National* Bank, 194 Pa. St. 334, 44 Atl. 1064; *Goodwin* v. *American National Bank,* 48 Conn. 550; *Gate City Building and Loan Assn.* v. *National Bank,* 126 Mo. 82, 28 S. W. 633, 47 Am. St. Rep. 630, 27 L. R. A. 401. *Contra, United States Fidelity & Guaranty Co.* v. *People's Bank,* 127 Tenn. 720, 157 S. W. 414; *Bank of Hickory* v. *McPherson,* 102 Miss. 852, 59 South. 934.

Although, under such circumstances, the bank is chargeable with notice that money belonging to a trust fund stands on its books to the personal account of the fiduciary, it is not chargeable with notice that the fiduciary is applying the trust funds to the payment of his personal debts, unless the bank itself receives such funds in payment of a personal obligation of the fiduciary to it. To make a bank liable to the cestui qui trust for all trust money, deposited on the personal account of the fiduciary and paid on order of his personal checks to third parties in settlement of his personal debts, is a far greater responsibility than the law exacts from the bank to its depositors. See MORSE, BANKS AND BANKING, 3rd Ed., § 317.

Although the bank receives no part of the trust funds, which have been deposited to the fiduciary's personal account in payment of such fiduciary's personal obligations to it, the bank is nevertheless liable, if it has been an active participant in the fraud. *Lowndes* v. *City National Bank,* 82 Conn. 8, 72 Atl. 150, 22 L. R. A. (N. S.) 408; *National Bank* v. *Munger,* 36 C. C. A. 659, 95 Fed. 87.

A somewhat more difficult situation arises when, at the time the deposit is made, the fiduciary's personal account is overdrawn. The decisions are in harmony to the extent that the bank is liable, if such funds are deposited in payment of an overdraft and for the specific purpose of discharging or reducing the overdraft. *Pannell* v. *Hurley,* 2 Coll. C. C. 241; *Washburn* v. *Linscott, State Bank,* 87 Kan. 698, 125 Pac. 17; *Lowndes* v. *City National Bank, supra; Allen* v. *Puritan Trust Co.,* 211 Mass. 409, 97 N. E. 916, L. R. A. 1915C, 518. Where fiduciary funds are received by the bank to be deposited to the fiduciary's personal account, which is at the time overdrawn, but such deposit be received in the regular course of business and not at the instance of the bank, so that the bank is not privy to the transaction, it is held in England that the incidental benefit received by the bank in the payment of the overdraft will not make it liable to the cestui qui trust. *Gray* v. *Johnston,* L. R. 3 Eng. Ir. App. 1, (1868) L. R. 3 H. L. 1, 16 W. R. 842; *Coleman* v. *Bucks & Oxen Union Bank,* 66 L. J. Ch. 564, (1897) L. R. 2 Ch. 243, 76 L. T. 684, 45 W. R. 616. This distinction is probably not drawn in this country. See *Allen* v. *Puritan Trust Co., supra.*

CONTRACTS OF EMPLOYMENT—UNCERTAINTY OF CONSIDERATION—DAMAGES. —The plaintiff entered the employment of the defendant under a con-